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TO:

**Examiner: P. Ward
USPTO**

FAX NUMBER:

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FROM:

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(908) 298-5068

TOTAL NO. OF PAGES INCLUDING COVER

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DATE:

January 18, 2006

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NOTES/COMMENTS:

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In re Application of: **M. Dwyer et al.**
For Patent entitled: "Novel Pyrazolopyridines as Cyclin Dependent Kinase Inhibitors"
Group Art Unit: 1623
Filed: 09/17/2003
Attorney Docket No.: OC01629K
Serial No.: 10/664,337

Dear Examiner Ward,

Transmitted herewith are:

- Fax Cover Sheet – 1pg.
- Cert. of Transmission – 1pg.
- Response Transmittal – 1pg.
- Response to Restriction Req. and Election of Species – 3pgs.



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Docket Number: OC01629K
 Application No: 10/664,337
 Filing Date: 09/17/2003
 First Inventor: DWYER, Michael P.

PTO/SB/97 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

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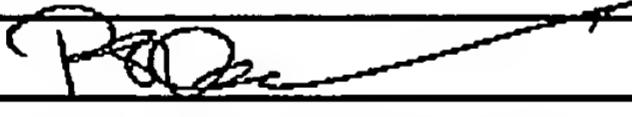
Total Number of Pages in This Submission

Application Number	10/664,337
Filing Date	09/17/2003
First Named Inventor	DWYER, Michael P.
Art Unit	1623
Examiner Name	P. Ward
Total Number of Pages in This Submission	6
Attorney Docket Number	OC01629K

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JAN 18 2006

PATENT: OC01629K

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	X
M. Dwyer et al.	:	Examiner: P. Ward
Serial No.: 10/664,337	:	Group Art Unit: 1623
Filed: September 17, 2003	:	
For: "Novel Pyrazolopyridines as Cyclin Dependent Kinase Inhibitors"	:	

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF
SPECIES

Sir:

This communication is in response to the Official Action dated December 27, 2005, on the subject patent application. This communication is being faxed to the Examiner's attention at 571-273-8300.

Claims 1-28 are pending in the case. The Examiner restricted the invention into four groups:

Group I: The compounds and compositions according to claim 1, Formula III, wherein R³ contains a heteroaryl/heterocycll moiety;

Group II: The compounds and compositions according to claim 1, Formula III, wherein R³ contains a non-heteroaryl/non-heterocycll moiety;

Group III: The method of treating according to claims 17-25, wherein R³ contains a heteroaryl/heterocycll moiety; and

Group IV: The method of treating according to claims 17-25, wherein R³ contains a non-heteroaryl/non-heterocycll moiety

If electing from among Groups I-IV, the Examiner additionally required the election of a single disclosed species for prosecution on the merits.

Applicants believe that all claims 1-28 form part of one and the same invention. Applicants further believe that when there is a linking claim (claim 1

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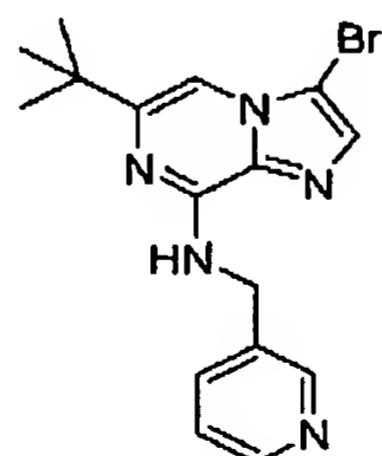
here) encompassing the scope of all the processes, uses, composition and compounds, it is inappropriate to restrict the invention into these various inventions. Applicants also believe that due to such commonality, a complete examination of claims 1-27 as filed would not cause undue burden. Applicants further believe that the same art search will most probably apply to the alleged separate inventions, and respectfully submit that the restriction is improper.

Under the statute "two or more independent and distinct inventions.... in one application may.... be restricted to one of the inventions." Inventions are "independent" if "there is no disclosed relationship between two or more subjects disclosed" (MPEP 802.01). The term "distinct" means that "two or more subjects as disclosed are related.... but are capable of separate manufacture, use or sale as claimed, and are patentable over each other" (MPEP 802.01). However, even when patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

In the present application, Applicant believes that the Examiner has not established a clear reason to establish the existence of any of the above 3 groups. Reconsideration and withdrawal of the restriction requirement are, therefore, respectfully requested.

However, in the interest of advancing the prosecution, Applicants elect, with traverse, the invention cited as Group II for prosecution on the merits, and elect the following species:



again with traverse. This compound is shown as Compound No. 32 on page 31 of the specification, as well as in Claim 15.

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If the Examiner has any questions, the Examiner is invited to contact
the undersigned.

January 18, 2006
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Respectfully submitted,



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